IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2576 OF 2004

Mr.Vishnu Varshney ...Petitioner

Versus

M/s. Lucid International Pvt. Ltd. and Ors. ...Respondents

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Mr. Ramdasan K.V., Advocate for Petitioner

Mr. V.B.Konde Deshmukh, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 21ST SEPTEMBER, 2005

P. C.:-

1. Heard the learned advocate for the petitioner and the learned A.P.P. for the State.

2. The petitioner has prayed for quashing of proceedings relating to Criminal Case No.1184/S/2002 which is pending in the Court of learned M.M. 47th Court, Esplanade, Mumbai. In the said case, process has been issued against the petitioner under Section 138 of Negotiable Instruments Act. The learned advocate for the petitioner submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. It is further submitted that if the process

issued against the petitioner is set aside, the proceedings in respect of the petitioner would come to an end.

3. For the reasons recorded in the decision of this Court in the case of **V.K. Jain & Ors. Vs. Pratap V. Padode and Anr, reported in 2005(3) Mh.L.J. 778,** in my opinion, the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioner prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer revision before the concerned Sessions Court. The learned advocate for the petitioner states that the necessary revision would be preferred within a period of four weeks from today. I am informed that the matter is before the trial court on 27.9.2005. In view of this statement, the trial Court shall not proceed with the trial on 27.9.2005 and for a period of three weeks thereafter.

5. It is also prayed that the learned Magistrate has issued non bailable warrant against the applicants and the said N.B.W. be quashed. I am not inclined to quash the N.B.W. as in my view, it would be

appropriate that the applicants prefer an application before the Magistrate for setting aside the said N.B.W. In order to enable the applicants to take necessary steps for setting aside the N.B.W. before the Magistrate, the said N.B.W. are stayed for a period of five weeks from today.

6. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

7. Writ Petition is disposed of.

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